HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 27916 OF 1996
DATE: 25.1.2007

Between:

M. Tripuraiah S/o M. Subba Reddy, aged about 30 years.

…Petitioner

AND

1. The Regional Manager, APSRTC, Ongole Region, Prakasam District and two others.

….Respondents

HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 27916 OF 1996

ORAL ORDER:

Aggrieved by the proceedings of the first respondent dated 23.10.1996, claiming that it is contrary to the judgment of this court in Writ Petition no. 3136 of 1996 dated 19.4.1996, the present Writ Petition is filed.

The petitioner was appointed as Conductor on daily wages on 7.11.1986. The respondents absorbed certain displaced employees in the year 1987 and their services were regularized form the date of their initial appointment. The petitioner's services were regularized with effect from 1.8.1987. On coming to know that some other employees had filed Writ Petition No. 8070 of 1990, seeking a direction that their services be regularized from the date of their initial appointment, the petitioner preferred Writ Petition No. 3136 of 1996. Writ Petition No. 8070 of 1990 was disposed of on 16.4.1994 directing the respondents to regularize the services of the petitioner from the date of their initial appointment with all consequential benefits. Aggrieved thereby, the respondents preferred Writ Appeal No. 705 of 1997 and the Division Bench by an order dated 24.7.1995 clarified that

the Writ Petitioners were entitled to be regularized in the post held by them from the date of continues appointment both for purposes of emoluments as well as seniority. The division bench clarified from the 'date of initial appointment' as indicated in the order of the learned single Judge must be read as the 'date of continuous appointment' as defined under Section 25-B of the Industrial Disputes Act (herein after called as 'the Act'). Writ Petition No. 3136 of 1996 filed by the petitioner was disposed of on 19.5.1996 following the judgment of the division bench in W.P.No. 705 of 1995 dated 24.7.1995 and the respondents were directed to regularize the services of the petitioner in the post of Conductor reckoning the petitioner's continues service, under Section 25-B of the Act. Vide proceedings dated 9.11.1996, the petitioner's services were regularized from the date on which they completed 240 days of service under Section 25-B of the Act and since the petitioner worked as a 'casual labour' from 31.10.1986 to 29.11.1986 and from 30.12.1986 to 31.12.1987, his services were regularized with effect from 31.10.1987. Questioning this order of regularization, the petitioner has approached this court. It is his case that while employees who were in continuous service, as defined under Section 25-B of the Act, are entitled for regularization, the date of regularization is not on completion of 240 days service, as prescribed under Section 25-B but from the date of initial appointment. According to the petitioner, while the requirement of completing 240 days of service as prescribed under Section 25-B of the I.D. Act, is a pre requisite for regularization, as directed by the Division Bench in Writ Appeal No. 705 of 1995 dated 24.7.1995, such of those employees who had completed this requirement, of 240 days

of service under Section 25-B, were entitled for regularization from the date of their initial appointment. Accepting the petitioner's contention would mean that since he was initially appointed on 31.10.1986, he was entitled for regularization from 31.10.1986 and not from 31.10.1987 which date he had completed 240 days of service. Sri Manmadha Reddy, Standing counsel for the respondents would however, rely on a Division Bench judgment of this court in W.A.No. 997 of 1997 dated 28.3.2006, wherein the Division Bench following the judgment of the Apex Court in DIVISIONAL MANAGER, APSRTC AND OTHERS VS. P. LAKSHMOJI RAO[1] held that the petitioners could not claim regularization from the date of the initial appointment. It is also necessary to note that in P. LAKSHMOJI RAO'S CASE, (1 supra), the Supreme Court disapproved the order of the Division Bench in W.A.No. 705 of 1995 dated 24.7.1995. The aforesaid judgment of the Division Bench, in W.A.No. 997 of 1997 dated 28.3.2006, fairly applies to the facts of the present case. Following the judgment of the Division Bench, in W.A.No. 997 of 1997 dated 28.3.2006, the order of regularization passed by the respondent Corporation must be upheld and the Writ Petition is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. However, in the circumstances without costs.

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RAMESH RANGANATHAN , J

Dated: 25.1.2007
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[1] 2004 (3) ALD 1 (SC)